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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,487	04/25/2002	Satoshi Kajiya	2611-0175P	3231

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EXAMINER

HELLNER, MARK

ART UNIT PAPER NUMBER

3663

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/069,487	Applicant(s) KAJIYA ET AL.	
	Examiner Mark Hellner	Art Unit 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-65 is/are pending in the application.  
     4a) Of the above claim(s) 11-65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <del>662005</del> <u>212712002</u> | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-5 are rejected under 35 U.S.C. 102(a) as being anticipated by Michishita et al (EP 1058413 A2).

Michishita et al disclose an optical amplifier comprising: an optical amplifier (2) which amplifies input signal light (1); an output detecting unit (6) which detects an output level of the optical amplifier; an output control unit (7) which controls the output level of the optical amplifier according to an output level detected by the output detecting unit; a gain inclination detecting unit (5, 6 and 9) which detects a gain inclination relating to the wavelength of the optical amplifier; and a gain inclination control unit (8) which controls the gain inclination of the optical amplifier according to the gain inclination detected by the gain inclination detecting unit.

The structure recited above reads on claim 1.

Claim 2 reads on element (5).

Claim 3 is taught by figure 5.

Claims 4 and 5 read on the properties of a WDM signal that is input to the amplifier.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michishita et al in view of Sugaya et al(6,480,329).

The difference between Michishita et al and claims 6-10 is that the output level detecting unit detect an output level at an output side of a optical variable attenuator.

Figure 9 of Sugaya et al teach that it was known at the time of the present application to have placed an output detection unit (13) on the output side of an optical variable attenuator (11) in the same type of amplifying apparatus as Michishita et al.

It would have been obvious to have modified the optical variable attenuator (3) of Michishita et al to the configuration shown by figure 9 of Sugaya et al when seeking the improvement provided by a detector dedicated only to the attenuator.

Any inquiry concerning this communication should be directed to Mark Hellner at telephone number 571 272 6981.

Mark Hellner  
Primary Examiner  
AU 3663

